

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sasha Linney	Team: Team # 5	CCRB Case #: 200501540	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/07/2004 9:00 AM	Location of Incident: § 87(2)(b)	Precinct: 77	18 Mo. SOL 12/7/2005	EO SOL 12/7/2005	
Date/Time CV Reported Fri, 02/11/2005 3:39 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/11/2005 3:25 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Albert Cotson	25934	929512	077 PCT
2. POM Darryl Chen	29402	903608	077 PCT
3. SGT David Cheesewright	01990	913752	077 PCT
4. CPT Steven Mauriello	00000	895117	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kertis Olivier	30537	919511	077 PCT
2. SGT Tania Sanchez	02086	914943	077 PCT
3. SGT David Jones	02597	892418	077 PCT
4. POM Sacha Pierrelouis	27882	921681	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Darryl Chen	Discourtesy: Officer Darryl Chen spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
B.POM Darryl Chen	Force: Officer Darryl Chen used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Darryl Chen	Force: Officer Darryl Chen used a chokehold against § 87(2)(b)	§ 87(2)(b)
D.POM Darryl Chen	Force: Officer Darryl Chen used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Albert Cotson	Force: Officer Albert Cotson used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Darryl Chen	Abuse: Officer Darryl Chen searched § 87(2)(b)	§ 87(2)(b)
G.POM Albert Cotson	Abuse: Officer Albert Cotson did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Synopsis

§ 87(2)(b) of § 87(2)(b) in Brooklyn, filed a complaint with the CCRB via telephone on February 11, 2005. § 87(2)(b) stated that at approximately 9 a.m. on June 7, 2004, his sister, § 87(2)(b) called 911 because their schizophrenic uncle, § 87(2)(b) had hit § 87(2)(b). Officers identified by investigation as Officer Darryl Chen and Officer Albert Cotson arrived and determined, against § 87(2)(b)'s wishes, that § 87(2)(b) would not be removed from the apartment. During an argument between § 87(2)(b) and the officers, Officer Chen allegedly used profanities (allegation A). § 87(2)(b) also alleged that Officer Chen, in response to § 87(2)(b) ordering the officers to leave and threatening to call a supervisor, grabbed § 87(2)(b) by the throat, choked him, pushed him against a wall, and repeatedly banged his head against the wall (allegations B and C). § 87(2)(b) pulled Officer Chen off her brother, and in response Officer Chen grabbed § 87(2)(b) by the hair and repeatedly banged her head against the metal frame of her bed (allegation D). Officer Cotson restrained § 87(2)(b) from moving towards Officer Chen by grabbing onto him and pulling him to the floor (allegation E). Both § 87(2)(b) and § 87(2)(b) were handcuffed. Numerous EMTs and backup officers, supervised by Sergeant David Cheesewright, responded to the location. § 87(2)(b) alleged that officers then searched his apartment (allegations F). § 87(2)(b) further alleged that Officer Cotson refused to provide medical attention to § 87(2)(b) (allegation G). At the stationhouse, § 87(2)(b) was arrested for § 87(2)(a) and § 87(2)(b) was issued a summons for § 87(2)(b). § 87(2)(b) was later arrested at the stationhouse for § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b) first stated that he filed the CCRB complaint more than seven months after the incident because he was “busy”; he later stated that he did not want the complaint to interfere with criminal charges.

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-old § 87(2)(b) obtained medical treatment from § 87(2)(b) on § 87(2)(b). The medical records from that visit identify § 87(2)(b)'s chief complaint as being “assaulted,” “choked,” and “thrown into couch and to ground” on June 7, 2004. Medical records from the same office dated § 87(2)(b) indicate that § 87(2)(b) “was assaulted by police” (Encl. 6a-b).

§ 87(2)(b) filed a complaint with the CCRB via telephone on February 11, 2005. He was interviewed via telephone on February 15, 2005 (Encl. 8a), and was interviewed at the CCRB on February 18, 2005 (Encl. 9a-e). § 87(2)(g)

§ 87(2)(b) stated that at approximately 9 a.m. on June 7, 2004, his sister, § 87(2)(b) got into a verbal argument in the entryway to their apartment with their uncle, § 87(2)(b) and their landlord, § 87(2)(b). § 87(2)(b) and § 87(2)(b) live in the same apartment.) After § 87(2)(b) left at the request of § 87(2)(b), § 87(2)(b) who has a long history of schizophrenia, swung his arm and hit § 87(2)(b) on the top of her right shoulder. § 87(2)(b) who witnessed § 87(2)(b) strike § 87(2)(b) from the living room, told his sister to call 911. § 87(2)(b) explained that the apartment opens to a hallway, and directly to the right is a living room, which has been converted into a bedroom for § 87(2)(b). A curtain separates § 87(2)(b)'s bed from the living room area. § 87(2)(b) called 911 from her bedroom, while § 87(2)(b) went outside to wait for the officers. § 87(2)(b) stated that his sister was crying at the time, but had no visible injuries.

Two uniformed officers from the 77th Precinct, identified by their nameplates as Officer Albert Cotson and Officer Darryl Chen, arrived in a marked RMP. § 87(2)(b) approached the officers, informed them of § 87(2)(b)'s mental illness, and escorted them to the apartment. Once inside, § 87(2)(b) led the officers to § 87(2)(b)'s room, which was at the end of the hallway and past the kitchen. Officer Chen went down the

hallway first and encountered § 87(2)(b) who was very calm at the time, near the doorway to the kitchen. Officer Chen asked § 87(2)(b) if he hit § 87(2)(b) and § 87(2)(b) admitted that he had. Officer Chen then asked § 87(2)(b) if he was mentally ill or on medication; § 87(2)(b) stated that he was mentally ill, but that he did not believe in medication because he takes natural herbs. § 87(2)(b) was unaware whether his uncle was on medication at the time.)

Officer Chen informed § 87(2)(b) that the situation appeared to be a domestic issue, and that they would not arrest § 87(2)(b). During his CCRB interview, § 87(2)(b) stated that EMS had not arrived at that time, but in his initial telephone statement to the CCRB § 87(2)(b) said that EMS had responded shortly after the officers arrived. § 87(2)(b) proceeded to get upset and inform the officers that he is § 87(2)(b). He explained to the officers that, according to the law, a person who admits he is mentally ill, and who proves himself a threat to himself or the public, should be arrested. § 87(2)(b) admitted that he was “very much upset” at the time, but stated that his behavior was professional and that he made no offensive physical movements towards the officers. Officer Chen’s response was, “We don’t give a fuck what you’re saying. Fucking relax,” to which § 87(2)(b) replied, “If you’re not going to do your job, I’m calling the sergeant.” (When he filed the complaint, § 87(2)(b) said that Officer Chen said, “Calm the fuck down,” and “What the fuck do you know?”) He then asked the officers to leave. At this time he and the officers were in the hallway, near the doorway to § 87(2)(b)’s bedroom.

After asking the officers to leave, § 87(2)(b) headed toward a telephone in § 87(2)(b)’s bedroom, but was stopped by Officer Chen, who “attacked” him by grabbing his throat with both hands and choking him, causing § 87(2)(b) to temporarily lose the ability to breathe. Officer Chen, still choking § 87(2)(b), then pushed him against a wall in the living room, and repeatedly pushed his head into the wall. While applying this repeated force, Officer Chen moved § 87(2)(b) about ten feet along the wall, the whole time telling § 87(2)(b) to relax. § 87(2)(b) was telling Officer Chen to get off him, while making defensive movements, the details of which § 87(2)(b) could not recall. § 87(2)(b) initially stated to the CCRB that he “did not fight back.” § 87(2)(b) suggested that Officer Chen attacked him in retaliation against § 87(2)(b)’s attempts to call the sergeant. Meanwhile, § 87(2)(b) yelled, “Leave my brother alone,” and tried to pull Officer Chen from behind with both arms. Officer Chen then turned, grabbed § 87(2)(b) and tried to wrestle her to the floor. Officer Chen pushed § 87(2)(b) across the living room, causing the curtain to fall. Officer Chen grabbed § 87(2)(b)’s hair and banged her head against the metal frame of her bed. § 87(2)(b) initially stated that Officer Chen “bashed” her head into the floor.) While this was happening, § 87(2)(b) calmly said to Officer Chen, “This is abuse. You need to stop.” § 87(2)(b) turned to Officer Cotson, who was standing by in the living room, not reacting, and said, “You know this is wrong. Tell him to get off my sister.” Officer Cotson told § 87(2)(b) to relax, but § 87(2)(b) started toward Officer Chen. Officer Cotson then grabbed onto § 87(2)(b)’s hand and pulled him back. § 87(2)(b) continued forward toward Officer Chen until Officer Cotson put his arms around § 87(2)(b) and pulled him to the floor. § 87(2)(b) admitted that he was resisting, not by making defensive movements, but by lunging toward Officer Chen. There was a brief struggle before Officer Cotson managed to handcuff § 87(2)(b). § 87(2)(b) then saw Officer Chen handcuff his sister.

At that point backup officers arrived. The supervisor of those officers was determined by investigation to be Sergeant David Cheesewright. § 87(2)(b) saw Officer Chen begin to search through the § 87(2)(b)’s personal belongings in the living room/bedroom. Officers Chen and Cotson then escorted § 87(2)(b) and his sister to the 77th Precinct. While § 87(2)(b) was in the holding cell, he was told that the officers did not know what charges would be brought against him, but that § 87(2)(b) would be charged with § 87(2)(b). (In his initial statement, § 87(2)(b) said that he was told in the cell that he would be issued a summons for § 87(2)(b).) Officer Cotson then admitted to § 87(2)(b) that he was wrong, and that the whole incident never should have happened. Officer Cotson released § 87(2)(b) from the cell and issued him a summons for § 87(2)(b).

In the public waiting area of the stationhouse, § 87(2)(b) met up with § 87(2)(b) § 87(2)(b)’s brother) and § 87(2)(b) a friend and attorney. § 87(2)(b) could hear his sister screaming from the holding cell, “I need to get help. My head hurts. Where’s my brother?” § 87(2)(b) approached Officer Cotson near the metal barrier which separates the waiting area from the rest of the stationhouse, and informed the officer that his sister needed medical attention. Officer Cotson only shrugged, so § 87(2)(b) approached a female

desk officer, identified by investigation to be Sergeant Tania Sanchez, and requested to speak to the head of the precinct. A half-hour later, an officer identified by investigation to be Detective Salvatore Moriello escorted § 87(2)(b) and § 87(2)(b) to his office, where he listened to what had happened. Detective Moriello expressed concern that the officers failed to arrest § 87(2)(b) and indicated that he would speak to the officers. § 87(2)(b) returned to the waiting area and saw Detective Moriello bring the officers into his office. § 87(2)(b) then heard Detective Moriello yelling at Officers Chen and Cotson. (In his February 15 telephone statement, § 87(2)(b) said that he overheard Detective Moriello ask the officers why § 87(2)(b) was not arrested.)

When Detective Moriello left his office, § 87(2)(b) informed him that § 87(2)(b) needed to speak to § 87(2)(b) who would be representing the both of them, but Detective Moriello told § 87(2)(b) to wait. § 87(2)(b) still hearing his sister's cries for help, told Sergeant Sanchez that his sister needed medical attention, however, the sergeant told him to wait. At that point, § 87(2)(b) informed an officer, identified by investigation to be Sergeant David Jones, that he needed to speak to § 87(2)(b). Sergeant Jones stated that § 87(2)(b) and not § 87(2)(b) could speak to § 87(2)(b). § 87(2)(b) told Sergeant Jones that that was not acceptable and informed the sergeant of his sister's legal right to counsel. § 87(2)(b) then went through the gate separating the waiting area and headed toward Detective Moriello's door. When Sergeant Jones ordered § 87(2)(b) to stop, he did so. Sergeant Jones told another officer, identified by investigation to be Officer Xavier Tello, to arrest § 87(2)(b). When Officer Tello was handcuffing him, § 87(2)(b) asked what he was being charged with, and Sergeant Jones said, "§ 87(2)(b). When § 87(2)(b) protested that he could not be trespassing in a public facility, Sergeant Jones told him to "Shut up," and threatened to arrest him for criminal impersonation for lying about being an attorney. Once in the holding cell, unidentified officers were saying that they would look him up in an attorney database in order to prove he's not an attorney.

A couple of weeks after the incident, § 87(2)(b) and § 87(2)(b) went to a private doctor. § 87(2)(b) has been treated for neck pain and a herniated disc in his back as a result of the struggle with Officer Chen. § 87(2)(b) believed that he also tore his meniscus, the cartilage in his knee.

On June 6, 2005, the undersigned called § 87(2)(b) to ask about discrepancy between his statement, that he saw a doctor "a couple of weeks" after the incident, and his medical records, that he saw a doctor three months after the incident. He said that at the time of the interview he was not sure exactly when he saw a doctor, and so he said, "a couple of weeks." The undersigned also asked § 87(2)(b) if he had filed a civil suit, but § 87(2)(b) stated that his lawyer, § 87(2)(b) may have filed a civil suit, but § 87(2)(b) was unaware of the fact (Encl. 39h). It should be noted that the notice of claim filed by § 87(2)(b) is generally consistent with the above statement, but does not include the search of the § 87(2)(b) apartment (Encl. 35a-q).

Results of Investigation

§ 87(2)(b) (Victim):

On § 87(2)(b) a § 87(2)(b)-old black female, stated to § 87(2)(b) that she was "assaulted last month" (Encl. 10a).

§ 87(2)(b) was interviewed via telephone on March 4, 2005 (Encl. 11a) and on April 14, 2005 (Encl. 12a).

§ 87(2)(g)

§ 87(2)(b) stated that when the officers appeared to be leaving, she tried to convince them of the seriousness of the situation. § 87(2)(b) then "took over" and tried to convince the officers as well, but eventually said, "I need you to leave. You're not helping," and went to make a phone call. In order to do this, he had to walk past Officer Chen to get to the phone. § 87(2)(b) stated that her brother made no physically offensive movements, but was simply trying to pass the officer, when Officer Chen grabbed him. § 87(2)(b)'s description of the rest of the physical altercation is very consistent with that of her brother. § 87(2)(b) made no mention of the officers using profanities.

§ 87(2)(b) elaborated that, when backup officers arrived, they were opening drawers and feeling through their personal belongings. § 87(2)(b) stated that she was taken to the 77th Precinct in the same RMP as

Officer Cotson. In the RMP, she requested medical attention, but Officer Cotson ignored her. At the precinct, she was screaming from the holding cell that she needed medical attention by saying, "Can somebody help me? I'm in pain. I need medical attention," but nobody responded. § 87(2)(b) did not direct these screams at any officer in particular, but believed the officers who passed by the cell heard her cries. She remained at the precinct until midnight of June 7, 2004; the next morning at Central Booking, no EMT checked out her medical condition, although she continued to say she was in pain. § 87(2)(b) did not know if her injuries were visible, but stated that she felt swelling on her head and neck. § 87(2)(b) stated that she was released after her first court visit, and her case was dismissed after no officers appeared at her five court appearances. She stated that a couple of days after the incident, she saw a doctor. She used to get headaches, but no longer suffers from them. § 87(2)(b) now goes to physical therapy twice a week for neck and back pain.

EMT § 87(2)(b) (Witness):

FDNY EMT § 87(2)(b) shield number § 87(2)(b) was interviewed via telephone on May 23, 2005 (Encl. 13a). EMT § 87(2)(b) stated that on June 7, 2004, she was working with EMT § 87(2)(b). At around 9 a.m., they received a radio call of an active, violent Emotionally Disturbed Person (EDP) at § 87(2)(b). Officers Chen and Cotson had already arrived at the location by the time the EMTs arrived.

The officers were speaking to § 87(2)(b) and § 87(2)(b) in the hallway, near the entrance to the apartment. § 87(2)(b) informed EMT § 87(2)(b) that § 87(2)(b) had hit § 87(2)(b). § 87(2)(b) was very calm at the time, was standing further away from the officers. § 87(2)(b) was very upset, and said that his uncle was "not with it," and that he had hit § 87(2)(b) on more than one occasion. Although § 87(2)(b) did not have any visible injuries, she insisted that her uncle had hit her. The officers had already determined that the uncle was not an EDP, and EMTs § 87(2)(b) and § 87(2)(b) spoke to the uncle and concurred that he was not exhibiting violent behavior.

When Officer Chen informed § 87(2)(b) that they were not going to remove § 87(2)(b), § 87(2)(b) became very upset. Officer Chen then attempted to move into the living room/bedroom with § 87(2)(b) to explain why they could not remove § 87(2)(b). Both officers were speaking to § 87(2)(b) face-to-face near the doorway to the living room/bedroom. § 87(2)(b) still in the hallway, was trying to move past the officers and into the living room. He became "irate" and started screaming, saying, "This isn't fair." § 87(2)(b) kept on flailing his arms, and trying to move past the officers, saying that it was his house and he could go wherever he wanted to. At first, § 87(2)(b) was behind the officers, but then the officers situated themselves so that they were aside § 87(2)(b). Officer Chen was giving § 87(2)(b) verbal commands to step back. The officer made a gesture with his hand, like a stop sign, meaning that § 87(2)(b) should stop advancing. However, § 87(2)(b) kept advancing toward the officers. EMT § 87(2)(b) stated that at some point § 87(2)(b) attempted to "barrel" past the officers, and made physical contact with them, pushing into them. At that point, Officer Chen grabbed § 87(2)(b) by the front of his shirt, swung him around, and, with the assistance of Officer Cotson, pushed him into a chair to the left of the entrance to the living room/bedroom. The officers then fell over § 87(2)(b). EMT § 87(2)(b) stated that the officers appeared to be trying to subdue § 87(2)(b).

Once Officer Chen succeeded in pushing § 87(2)(b) into the chair, he stood up, and appeared to be reaching for his handcuffs. However, § 87(2)(b) came from behind and grabbed Officer Chen by both arms around his neck. Both Officer Chen and § 87(2)(b) fell forward, toward the curtain. As her vision was focused on Officer Chen and § 87(2)(b), EMT § 87(2)(b) lost sight of § 87(2)(b). The next time she saw him, he was handcuffed. EMT § 87(2)(b) observed Officer Chen fall forward until he hit his head on the bed. The officer then rolled over, and § 87(2)(b) fell over him. Officer Chen got up as § 87(2)(b) started to scream. He then handcuffed her and called for backup.

More officers soon arrived, supervised by Sergeant Cheesewright. The living room/bedroom was a mess at that time. As officer Chen had lost his radio in the struggle with § 87(2)(b), the officers started searching for it around the area around the curtain and the bed. Aside from searching for the radio, the officers did not search anywhere else, such as closets or drawers. § 87(2)(b) and § 87(2)(b) were removed from the location handcuffed. EMT § 87(2)(b) did not notice any visible injuries on either of them, nor did they complain of

injuries or request medical attention. EMT § 87(2)(b) stated that if either of them had had injuries, she would have attended to them and called another ambulance. After § 87(2)(b) and § 87(2)(b) left, EMT § 87(2)(b) spoke to § 87(2)(b) who said that he had a doctor's appointment to go to, and left.

Upon direct questioning, EMT § 87(2)(b) said that the officers did not use profanities or say, "We don't give a fuck what you're saying. Fucking relax." EMT § 87(2)(b) stated that Officer Chen did not grab § 87(2)(b) by his throat, choke him, or throw him against a wall. She stated that Officer Chen did not grab § 87(2)(b) by her hair and bang her head against the bed. She did not witness Officer Cotson grab § 87(2)(b) and pull him to the floor.

EMT § 87(2)(b) (Witness):

FDNY EMT § 87(2)(b) shield number § 87(2) was interviewed via telephone on May 23, 2005 (Encl. 14a). § 87(2)(g) EMT § 87(2)(b) stated that § 87(2)(b) told her that § 87(2)(b) did not hit her, but that she wanted him out of the apartment. Concerning the behavior of § 87(2)(b) EMT § 87(2)(b) stated that he became "irate" upon learning that § 87(2)(b) would not be removed, and started yelling, saying that he was a lawyer and he knew his rights. During the incident EMT § 87(2)(b) remained near § 87(2)(b) near the kitchen area of the apartment, ensuring that he stayed calm. As such, she witnessed only part of the physical altercation that ensued, specifically, what happened near the bed. EMT § 87(2)(b) could see that, as soon as Officer Chen managed to remove the curtain, he put § 87(2)(b)'s hands behind her back and handcuffed her. EMT § 87(2)(b) did not see Officer Chen grab § 87(2)(b)'s hair, or hit her head against the bed. Concerning details such as the extent to which the officers searched the apartment, and whether § 87(2)(b) or § 87(2)(b) had physical injuries, EMT § 87(2)(b)'s statement is consistent with that of EMT § 87(2)(b).

Paramedic § 87(2)(b) (Witness):

§ 87(2)(b) a paramedic with § 87(2)(b), was interviewed via telephone on April 14, 2005 (Encl. 15a). Paramedic § 87(2) stated that on at approximately 9 a.m. on June 7, 2004, he and unidentified paramedic responded to a backup call placed by FDNY EMTs at § 87(2)(b). By the time Paramedic § 87(2) arrived, there were approximately ten police officers, two people in handcuffs, and two EMTs already in the apartment, which was "disheveled" at the time. The curtains were down, the mattress had fallen off the boxspring, the bed frame may have been broken, and there were various knickknacks knocked down. § 87(2)(b) and § 87(2)(b) were handcuffed. There was a lot of "tension" in the apartment. § 87(2)(b) and § 87(2)(b) had not been separated sufficiently, so that when one was being questioned, the other would dispute the answers. Paramedic § 87(2) stated that people were screaming, but the situation was not out of control.

As Officer Chen had lost his radio, officers were looking for it on the ground and moving clothes around. Paramedic § 87(2) recalled that the police found the radio under the mattress by turning off all radios and listening for the missing one. As soon as the radio was found, the officers ceased searching the apartment. No officer performed any other kind of search aside from looking for the radio. Paramedic § 87(2) however, was not the first or the last person to leave. While he was in the apartment, § 87(2)(b) and § 87(2)(b) were removed from the apartment.

***Note regarding additional witness statements:**

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Officer Darryl Chen (Subject Officer):

Officer Darryl Chen, of the 77th Precinct, was interviewed at the CCRB on April 11, 2005 (Encl. 17a-b). Officer Chen stated that on June 7, 2004, he worked from 7:05 a.m. to 3:40 p.m., assigned to precinct patrol. He was working in uniform with Officer Albert Cotson, assigned to marked RMP number 2342. Officer Chen's memo book entries regarding this incident are consistent with his statement (Encl. 16a-c).

Officer Chen stated that at approximately 9 a.m., he received a 911 call transfer from a female who complained of an EDP at § 87(2)(b). When he and Officer Cotson arrived at the

location, he saw a black male (whom the officer later found to be § 87(2)(b) outside who followed the officers to apartment §. Outside, § 87(2)(b) did not identify himself or interact with the officers. Officers Chen and Cotson knocked on the door to apartment §, and § 87(2)(b) answered, calm and with no visible injuries. § 87(2)(b) told the officers that her uncle, § 87(2)(b) was not taking his medication, that they got into an argument, and that the uncle hit her hand. Officer Chen proceeded down the hallway to speak to § 87(2)(b) who was in the kitchen. Just outside of the kitchen, in the hallway, Officer Chen spoke to § 87(2)(b) who said he had run out of his medication. Officer Chen determined, based on his experience, that § 87(2)(b) was not an EDP. FDNY EMTs § 87(2)(b) and § 87(2)(b) arrived soon after, spoke with § 87(2)(b) and concurred with Officer Chen.

In the hallway, Officer Chen explained to § 87(2)(b) and § 87(2)(b) that he and the EMTs determined that their uncle was not an EDP. § 87(2)(b) and § 87(2)(b) then got “hostile and upset,” and told Officer Chen to remove § 87(2)(b). Officer Chen tried to explain what type of person is an EDP, but the nephew starting screaming, saying things like, “That’s bullshit. I’m a lawyer. You’re not doing your fucking job.” Officer Chen pulled § 87(2)(b) aside, away from § 87(2)(b) and into the bedroom/living room, and attempted to explain again. At this point Officer Chen was near a doorway to the bedroom/living room, facing § 87(2)(b). Officer Cotson was to his left.

Officer Chen lost sight of § 87(2)(b) but all of a sudden heard him say, “Fuck that,” turned, and saw § 87(2)(b) coming towards him with his left hand in the air. Officer Chen acted quickly to pin § 87(2)(b)’s arm against the wall, because it appeared as though he was going to strike. Officer Cotson also grabbed § 87(2)(b)’s hand. Suddenly, § 87(2)(b) who is overweight, “jumped on top” of Officer Chen’s back from behind, which caused him to tumble to the ground. Officer Chen landed on his back; his head and back hit the floor. § 87(2)(b) landed to the side of him, near the bed. As a result, a curtain fell on top of Officer Chen. He couldn’t see anything and was struggling to get the curtain off. Once he did, he got up and handcuffed § 87(2)(b) who was standing at that point.

Meanwhile, Officer Cotson radioed for backup. By the time Officer Chen turned around, § 87(2)(b) was handcuffed. Soon after, six to eight officers, including Sergeant Cheesewright and two more paramedics arrived. Officer Chen explained what happened to Sergeant Cheesewright, then took § 87(2)(b) to the car and placed him in the RMP. At that point Officer Chen realized that he had lost his radio in the struggle. Officer Chen’s description of the search for the radio is consistent with that of Paramedic § 87(2)(b).

Officer Chen took § 87(2)(b) to the precinct. At the precinct, Officer Cotson issued § 87(2)(b) a summons for § 87(2)(b). § 87(2)(b) was arrested for § 87(2)(b). Officer Chen resumed patrol at 11 a.m., and did not witness anything unusual occur at the precinct. Officer Chen was not going to be the arresting officer for § 87(2)(b) but he later returned to the precinct and assigned by a supervisor to process her arrest. At no time did he hear § 87(2)(b) request medical attention.

Upon direct questioning, Officer Chen stated that he did not say, “I don’t give a fuck what you’re saying. Fucking relax.” Officer Chen denied grabbing § 87(2)(b)’s throat, choking him, or throwing him against the wall. Officer Chen denied banging § 87(2)(b)’s head against the bed.

Officer Albert Cotson (Subject Officer):

Officer Albert Cotson, of 77th Precinct, was interviewed at the CCRB on March 7, 2005 (Encl. 19a-b). Officer Cotson’s memo book entries regarding this incident are consistent with his statement (Encl. 18a-c).

§ 87(2)(g) Officer Cotson stated that while Officer Cotson and § 87(2)(b) were talking, after the EMTs concurred with Officer Chen that § 87(2)(b) was not EDP, Officer Chen turned around. Officer Cotson stated that he did not hear a noise, but at some point he turned around to see Officer Chen and § 87(2)(b) involved in a physical altercation. After observing the altercation, Officer Cotson immediately called for backup, and grabbed § 87(2)(b)’s hand to prevent him from moving towards his sister. Although he didn’t handcuff § 87(2)(b) immediately, Officer Cotson wrapped his arms around § 87(2)(b) to restrain him.

After backup arrived, § 87(2)(b) was escorted downstairs by an unidentified officer. Officer Cotson remained in the apartment for an unspecified period of time, “standing around.” Officer Cotson did not search anything in the apartment and did not observe any other officer searching the apartment. After Officer Cotson left the apartment, § 87(2)(b) not yet handcuffed, went downstairs into the building lobby and became “irate,” using obscenities, flailing his arms, and acting in a threatening manner. An unidentified officer handcuffed § 87(2)(b) and Officer Chen and Officer Cotson transported § 87(2)(b) to the precinct. § 87(2)(b) was “using obscenities” in the RMP as well. At the precinct, § 87(2)(b) was issued a summons for § 87(2)(b). Officer Cotson stated that he did not have any interaction with § 87(2)(b) at the precinct aside from issuing the summons.

The last time Officer Cotson recalled seeing § 87(2)(b) was at the apartment. To Officer Cotson’s knowledge, § 87(2)(b) remained in the apartment. At no point did Officer Cotson hear § 87(2)(b) or § 87(2)(b) request medical attention. Upon direct questioning, Officer Cotson stated that Officer Chen did not use profanities, or choke § 87(2)(b). Officer Cotson stated that Officer Chen did not grab § 87(2)(b) by the hair, or hit her head into the bed.

Sergeant David Cheesewright (Subject Officer):

Sergeant David Cheesewright, of the 77th Precinct, was interviewed at the CCRB on April 13, 2005 (Encl. 20a-b). Sergeant Cheesewright stated that on June 7, 2004, he was working from approximately 7 a.m. to 3 p.m., assigned as the patrol supervisor. He was working with Officer Kertis Olivier. Sergeant Cheesewright’s memo book from the time of the incident was destroyed.

Sergeant Cheesewright stated that at approximately 9 a.m., he responded to a call for backup at § 87(2)(b). Officers needed assistance struggling with two people. When Sergeant Cheesewright arrived, he saw “a couple” more officers in addition to Officers Chen and Cotson, two EMTs, and a male and a female handcuffed and under arrest. Both the male and the female were “screaming and yelling,” the details of which Sergeant Cheesewright could not recall. The apartment was a “mess,” the curtains were down, knickknacks were on the floor, and the mattress had fallen off of the box spring.

Sergeant Cheesewright spoke to Officer Chen, who provided a brief synopsis of what had happened. Sergeant Cheesewright reiterated a brief synopsis of the incident which was consistent with that of Officer Chen.

Sergeant Cheesewright then interviewed § 87(2)(b) who was in the hallway by the front door. “Calm” and “easygoing,” he told the sergeant that he’s not taking his medicine and that his niece and nephew were trying to get him out. Sergeant Cheesewright determined along with EMS that the uncle was not an EDP. During this time, more backup officers arrived, but the sergeant did not allow them to enter the apartment because more officers were not necessary.

As the apartment was a “mess,” Sergeant Cheesewright threw the bed back on the box spring and may have arranged other things. Officer Chen informed Sergeant Cheesewright that he had lost his radio in the scuffle. Sergeant Cheesewright’s description of the search is consistent with that of Paramedic § 87(2)(b). Sergeant Cheesewright could not recall if he later encountered the male or female at the precinct, and it was never brought to his attention that anything unusual had occurred at the precinct.

Sergeant David Jones (Witness Officer):

Sergeant David Jones, of the 77th Precinct, was interviewed at the CCRB on June 2, 2005. Sergeant Jones stated that on June 7, 2005, he worked an approximate tour of 10 a.m. to 6 p.m. At the time of the incident and the interview, Sergeant Jones was the Integrity Control Officer of the 77th Precinct. He does not maintain a memo book.

Sergeant Jones stated that at approximately 10 a.m., he was in the stationhouse walking out of his first-floor office when he encountered § 87(2)(b) at the reception area. Sergeant Jones explained that the stationhouse waiting area of is governed by a 4-foot high wall with four metal barriers which one can push open to gain access to the rest of the precinct. When he first encountered § 87(2)(b) Sergeant Jones was 5 to 10 feet away from Captain Steven Mauriello’s office, located on the other side of the barrier from where

§ 87(2)(b) was standing. (Captain Mauriello is currently assigned to Patrol Borough Brooklyn North.) § 87(2)(b) “agitated,” called Sergeant Jones over and said that he wished to speak to the commanding officer of the 77th Precinct. Sergeant Jones asked § 87(2)(b) why, and § 87(2)(b) explained that he had been issued a summons and that his sister, § 87(2)(b) was arrested earlier, and that he wished to speak to Captain Mauriello again. § 87(2)(b) also said that he was a lawyer and that he wanted to know about his sister. Sergeant Jones stated that, before he encountered § 87(2)(b) he had no prior knowledge of the arrest or summons. Sergeant Jones recalled that § 87(2)(b) “possibly” used the fact that he was a lawyer as a basis for wanting to speak to the captain.

Sergeant Jones then went to Captain Mauriello’s office and conveyed § 87(2)(b)’s request. Captain Mauriello informed Sergeant Jones that his conversation with § 87(2)(b) was over, and that he did not need to speak to him again. Sergeant Jones returned to the waiting area, relayed the message to § 87(2)(b) and walked in the opposite direction from Captain Mauriello’s office, towards the muster room. Sergeant Jones stated that § 87(2)(b) had become “agitated,” but that he had no other indication that § 87(2)(b) would pass the barrier. Not long after, however, Sergeant Jones heard the metal barrier sliding across the floor, and turned to find that § 87(2)(b) had pushed the metal barrier open, and was walking towards Captain Mauriello’s office. Sergeant Jones asked § 87(2)(b) where he was going, to which § 87(2)(b) replied, “I’m going to the captain’s office.” Sergeant Jones then “ran over” to § 87(2)(b) grabbed him by his shoulders and body, and called Officer Xavier Tello over so that the officer could place § 87(2)(b) under arrest for trespassing. Sergeant Jones stated that § 87(2)(b) was compliant while being arrested. Officer Tello then directed § 87(2)(b) to the desk area. Sergeant Tania Sanchez was the desk sergeant that day.

After Officer Tello handcuffed § 87(2)(b) Sergeant Jones went back to his office, and remained there for the rest of his tour. Sergeant Jones did not have any interaction with § 87(2)(b). He was aware that § 87(2)(b) was in the female holding area, directly behind the desk, but he never saw or heard § 87(2)(b). Sergeant Jones stated that, from the desk area, he would not have been able to hear or see § 87(2)(b) as the holding area has a solid door which is flush to the desk area. Sergeant Jones did not hear § 87(2)(b) request medical attention for himself or for § 87(2)(b) or complain of any injuries. Sergeant Jones did not see any injuries to § 87(2)(b). Sergeant Jones stated that he did not threaten to arrest § 87(2)(b) for criminal impersonation.

Sergeant Tania Sanchez (Witness Officer):

Sergeant Tania Sanchez, of the 77th Precinct, was interviewed at the CCRB on June 7, 2005. Sergeant Sanchez stated that on June 7, 2004, she worked from 6:55 a.m. to 3:52 p.m., assigned as the desk officer. She was dressed in uniform. Sergeant Sanchez had no entries in her memo book regarding this incident.

Sergeant Sanchez stated that on the morning of June 7, 2004, she was behind the desk, busy performing desk duties, but all of a sudden heard loud voices. Sergeant Sanchez had a vague recollection of the incident which generally corroborated Sergeant Jones’s statement. She could not recall the details of Sergeant Jones’s conversation with § 87(2)(b) or whether § 87(2)(b) said anything about being a lawyer. Sergeant Sanchez did not hear Sergeant Jones threaten to arrest § 87(2)(b) for criminal impersonation.

Sergeant Sanchez stated that she did not have any interaction with § 87(2)(b) at any time. She could not recall whether any persons accompanied § 87(2)(b) at the stationhouse. Furthermore, she could not recall whether she stepped away from the desk at any time that day. She did not recall § 87(2)(b) asking her to speak to Captain Mauriello. Sergeant Sanchez could not recall § 87(2)(b)’s physical condition, or whether he had any injuries. Sergeant Sanchez stated that, if someone were to yell loudly from the holding cell, she may be able to hear him or her, but she could not recall anyone yelling on that day. Sergeant Sanchez did not hear § 87(2)(b) request medical attention.

*** Note regarding officer statements:**

§ 87(2)(g)

Medical Records:

§ 87(2)(b)'s medical records from § 87(2)(b) note that he complained of pain in his cervical spine worsened by neck movement, pain in his lumbar, or lower back, worsened by prolonged sitting or standing, and knee pain worsened by prolonged walking. He was prescribed Ibuprofen and given an MRI. An MRI of § 87(2)(b)'s left knee was taken on § 87(2)(b), and found no fractures or dislocations, but noted a mild amount of joint fluid and a torn posterior horn of the medial meniscus. An MRI of the lower back revealed nothing abnormal aside from a left-sided posterolateral disc herniation (Encl. 24a-i).

§ 87(2)(b)'s medical records from § 87(2)(b) note that she complained of pain and stiffness in her cervical spine and headaches. The examination revealed no injuries. § 87(2)(b) was prescribed Ibuprofen and physical therapy (Encl. 25a-t).

No pre-arraignment screening forms were obtained from the Department of Corrections, as the arrests related to this incident were sealed when the complaint was filed.

Police Records:

The communications records for this incident note that a call came over from a female caller requesting assistance at 9:06 a.m., and that 77th Precinct sector A responded to the scene at 9:18 a.m. At 9:20 a.m., it was noted that EMS was on the scene, and that various 77th Precinct sectors, as well as additional EMS, arrived on or after 9:30 a.m. Two perpetrators were reported as apprehended at 9:31 a.m. At 9:54 a.m., it was noted that an unidentified member of service received a minor laceration to his hand (Encl. 26a-o).

The command log from June 7, 2004 notes that § 87(2)(b) was brought into the stationhouse at 9:50 a.m. in apparently normal condition. The command log also notes that her attorney, § 87(2)(b) was present at the stationhouse at 12:20 a.m., and departed at 12:30 a.m. § 87(2)(b) was transported to Brooklyn Central Booking at 3:05 a.m. The command log also notes that § 87(2)(b) was issued summons # § 87(2)(b) by Officer Sacha Pierrelouis. His physical condition was noted as apparently normal. § 87(2)(b) was released at 10:38 a.m. (Encl. 27a).

There were no arrest reports or other related documents obtained for this investigation, as the arrests were sealed by the time the complaint was filed. § 87(2)(b) provided a photocopy of the summons he was issued, number § 87(2)(a) 160.50 (Encl. 29a). He also provided a copy of the certificate of disposition of his summons and his arrest.

Summons Disposition:

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civil Suit Documents:

§ 87(2) and § 87(2)(b) filed a notice of claim against the City of New York, the New York Police Department, and various members of service (Encl. 35a-q) seeking a sum total of \$60,000,000 as a result of this incident, claiming unlawful and improper arrest, excessive force, and personal injuries.

Civilian Conviction Histories:

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History:

§ 87(2)(b) had filed three CCRB complaints prior to this case, § 87(2)(b)

§ 87(2)(b)

Officer CCRB History:

In his 11-year tenure, Officer Chen has had no prior substantiated CCRB allegations (Encl. 3a). Officer Cotson has had no prior substantiated CCRB allegations in his 2-year tenure (Encl 4a).

In his 14-year tenure, Sergeant Cheesewright has had allegations substantiated against him in three CCRB cases: in 200202002, the CCRB substantiated allegations of physical force, vehicle searched, and a threat of force, but the Deputy Commissioner found Sergeant Cheesewright not guilty. Seven allegations—a detention and questioning, refusal to provide name and shield number, § 87(4-b) § 87(2)(g), three allegations of frisk and search, and a vehicle stop were substantiated in CCRB case 200202912. He was found guilty in trial of the latter four allegations. In case 200205206, the CCRB substantiated allegations of frisk and search, vehicle stop, vehicle searched, and retaliatory summons, but the but the Deputy Commissioner dismissed the charges (Encl. 2a-c).

Conclusions and Recommendations

Officer Identification:

Officers Chen and Cotson were identified by § 87(2)(b) by their nameplates, and they confirmed that they were involved in the incident. Sergeant Cheesewright was identified as the supervisor by Officers Chen and Cotson, and he also confirmed his involvement.

Note on the pleading of allegations:

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Issues in Dispute:

§ 87(2)(g)

Credibility:

§ 87(2)(g)

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

Allegation A: Discourtesy – Officer Darryl Chen spoke obscenely and/or rudely to § 87(2)(b)

In his interview, § 87(2)(b) alleged that Officer Chen said, “We don’t give a fuck what you’re saying. Fucking relax,” an allegation which Officer Chen denied. § 87(2)(b) made no mention of Officer Chen using profanities. Both EMT § 87(2)(b) and Officer Cotson stated that Officer Chen did not use profanity. § 87(2)(g)

Allegation B: Force – Officer Darryl Chen used physical force against § 87(2)(b)

Allegation C: Force – Officer Darryl Chen used a chokehold against § 87(2)(b)

§ 87(2)(g)

In his interview, § 87(2)(b) alleged that Officer Chen grabbed § 87(2)(b) by the throat, choked him, pushed him against a wall, and repeatedly banged his head against the wall. § 87(2)(b) admitted to walking toward Officer Chen at the time, but he believed that Officer Chen committed such acts to prevent § 87(2)(b) from calling a supervisor to the scene. § 87(2)(b) stated that her brother made no physically offensive movements, but was simply trying to pass the officer, when Officer Chen grabbed him. Officer Chen stated that he pinned § 87(2)(b)’s arm to the wall as § 87(2)(b) approached him with his arm raised, as if to strike. Officer Cotson denied having witnessed this struggle. EMT § 87(2)(b) stated that § 87(2)(b) arms flailing, “barrelled” past the officers, pushing into them; Officer Chen grabbed § 87(2)(b) by the front of his shirt, swung him around, and, with the assistance of Officer Cotson, pushed him into a chair. § 87(2)(g)

§ 87(2)(g)

Patrol Guide 203-11 directs officers to use “minimum necessary force” (Encl. 1a). § 87(2)(g)

Allegation C: Officer Darryl Chen used physical force against § 87(2)(b)

§ 87(2)(g)

Patrol Guide Procedure 203-11, governing the use of force, stated that officers are permitted to use “only the amount of force necessary to overcome resistance” to effect an arrest (Encl. 1a). § 87(2)(g)

Allegation D: Officer Albert Cotson used physical force against § 87(2)(b)

§ 87(2)(b) admittedly moved towards Officer Chen as the officer was struggling on the ground with § 87(2)(b). § 87(2)(b) alleged that Officer Cotson first grabbed onto § 87(2)(b)’s hand, but then put his arms around § 87(2)(b) and pulled him to the floor. Officer Chen’s version reiterates § 87(2)(b)’s claim, excepting the pull to the floor. Based on all evidence, Officer Cotson’s use of force in this situation was wholly consistent with Patrol Guide Procedure 203-11. § 87(2)(g)

Allegation E: Officer Darryl Chen searched § 87(2)(b)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]

Allegation F: Officer Albert Cotson did not obtain medical treatment for § 87(2)(b) [Redacted]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: